

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
	§	
v.	§	No. 3-12 CV2350-O-BK
	§	
CAROLE RUTH SMITH, and	§	
HARRISON EARL SMITH,	§	
	§	
Defendants,	§	
	§	
and	§	
	§	
BANK OF AMERICA, NA,	§	
COMPASS BANK, and	§	
TEXANS CREDIT UNION,	§	
	§	
Garnishees.	§	

FINDINGS, CONCLUSIONS, AND RECOMMENDATION

This court recommends that the United States’ motion for final order of garnishment be GRANTED.

The United States of America (United States) filed an Application for Writs of Garnishment seeking substantial nonexempt property belonging to or due Defendants- Judgment Debtors Carole Ruth Smith (Carole) and Harrison Earl Smith (Harrison) held by Garnishees Bank of America, NA, Compass Bank, and Texans Credit Union and their affiliates, and successors, or assigns (collectively Garnishees). Writs of Garnishment were properly served on Garnishees, which filed Answers stating whether they had in their

possession, custody, or control any substantial nonexempt property belonging to or due Carole and/or Harrison.

Carole and Harrison were properly served with the Writs and notified of their right to a hearing. Harrison neither requested a hearing nor claimed any exemption, and the statutory time period to do so has elapsed. Carole and her adult daughter, Tammy Smith (Tammy), filed a series of *pro se* motions to object to the garnishment and quash discovery of various account records and requested a hearing. This Court denied the motions to quash and set a hearing, after which Carole and Tammy withdrew their objections to the garnishment.

Accordingly, this court respectfully recommends that the district judge enter a final order of garnishment directing Garnishee Compass Bank, and its affiliates, successors, or assigns to the United States the total amount of \$90,610.89, which represents the \$82,373.54 in outstanding principal as of January 22, 2013, plus a 10% surcharge of \$8,237.35 pursuant to 28 U.S.C. § 3011(a) to satisfy the judgment debt in criminal case number 3:92-CR-500 as follows:

(1) A certified check in the amount of \$82,373.54 bearing case number 3:92-CR-500 shall be made payable and mailed to the United States District Clerk, 1100 Commerce Street, Room 1452, Dallas, TX 75242 for the funds to be applied to the judgments rendered in case number 3:92-CR-500 against Carole and Harrison; and


(2) A separate certified check in the amount of \$8,237.35 for the 10% surcharge

should be made payable and mailed to the Department of Justice, Attn: Donna Sweeney, 801 Cherry Street Unit 4, Burnett Plaza Suite 1700, Fort Worth, TX 76102.

This court further recommends that the Writs of Garnishment directed to Bank of America, N.A. and Texans Credit Union are terminated as quashed without prejudice.

Specific written objections to this report and recommendation may be served and filed within 14 business days from the date that this order is served. FED. R. CIV. P.72(b). Failure to file objections with the district court within the specified time will result in a waiver of the right to appeal all findings, factual and legal, made by this Court in the report and recommendation.

SIGNED on February 20, 2013.



RENÉE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE